

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff(s),	)	No. C 08-02968 BZ
	)	
v.	)	<b>ORDER SCHEDULING</b>
	)	<b>JURY TRIAL</b>
APPROXIMATELY \$23,729 IN	)	
UNITED STATES CURRENCY,	)	
	)	
Defendant(s).	)	
_____	)	

Following the Case Management Conference, **IT IS HEREBY ORDERED** that:

1. DATES

Trial Date: **Monday, 10/19/2009, 5 days**

Pretrial Conference: **Tuesday, 9/29/2009, 4:00 p.m.**

Last Day to Hear Dispositive Motions: **Wednesday, 8/26/2009**

Last Day for Expert Discovery: **Friday, 7/17/2009**

Last Day for Rebuttal Expert Disclosure: **Friday, 7/11/2009**

Last Day for Expert Disclosure: **Friday, 7/3/2009**

Close of Non-expert Discovery: **Friday, 6/26/2009**

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2. DISCLOSURE AND DISCOVERY

The parties are reminded that a failure to voluntarily disclose information pursuant to Federal Rule of Civil Procedure 26(a) or to supplement disclosures or discovery responses pursuant to Rule 26(e) may result in exclusionary sanctions. Thirty days prior to the close of non-expert discovery, lead counsel for each party shall serve and file a certification that all supplementation has been completed.

In the event a discovery dispute arises, **lead counsel** for each party shall meet in person or, if counsel are outside the Bay Area, by telephone and make a good faith effort to resolve their dispute. Exchanging letters or telephone messages about the dispute is insufficient. The Court does not read subsequent positioning letters; parties shall instead make a contemporaneous record of their meeting using a tape recorder or a court reporter.

In the event they cannot resolve their dispute, the parties must participate in a telephone conference with the Court **before** filing any discovery motions or other papers. The party seeking discovery shall request a conference in a letter filed electronically not exceeding two pages (with no attachments) which briefly explains the nature of the action and the issues in dispute. Other parties shall reply in similar fashion within two days of receiving the letter requesting the conference. The Court will contact the parties to schedule the conference.

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3. MOTIONS

Consult Civil Local Rules 7-1 through 7-5 and this Court's standing orders regarding motion practice. Motions for **summary judgment** shall be accompanied by a statement of the material facts not in dispute supported by citations to admissible evidence. The parties shall file a joint statement of undisputed facts where possible. If the parties are unable to reach complete agreement after meeting and conferring, they shall file a joint statement of the undisputed facts about which they do agree. Any party may then file a separate statement of the additional facts that the party contends are undisputed. A party who without substantial justification contends that a fact is in dispute is subject to sanctions.

A Chambers copy of all briefs shall be e-mailed in WordPerfect or Word format to the following address:  
bzpo@cand.uscourts.gov.

4. SETTLEMENT

This case is referred for assignment to a Magistrate Judge to conduct a settlement conference in January or February 2009. Counsel will be contacted by that judge's chambers with a date and time for the conference.

5. PRETRIAL CONFERENCE

Not less than thirty days prior to the date of the pretrial conference, the parties shall meet and take all steps necessary to fulfill the requirements of this Order.

1 Not less than twenty-one days prior to the pretrial  
2 conference, the parties shall: (1) serve and file a joint  
3 pretrial statement, containing the information listed in  
4 **Attachment 1**, and a proposed pretrial order; (2) serve and  
5 file trial briefs, Daubert motions, motions *in limine*, and  
6 statements designating excerpts from discovery that will be  
7 offered at trial (specifying the witness and page and line  
8 references); (3) exchange exhibits, agree on and number a  
9 joint set of exhibits and number separately those exhibits  
10 to which the parties cannot agree; (4) deliver all marked  
11 trial exhibits directly to the courtroom clerk, Ms. Voltz;  
12 (5) deliver one extra set of all marked exhibits directly to  
13 Chambers; and (6) submit all exhibits in three-ring binders.  
14 Each exhibit shall be marked with an exhibit label as  
15 contained in **Attachment 2**. The exhibits shall also be  
16 separated with correctly marked side tabs so that they are  
17 easy to find.

18 No party shall be permitted to call any witness or  
19 offer any exhibit in its case in chief that is not disclosed  
20 at pretrial, without leave of Court and for good cause.

21 Lead trial counsel for each party shall meet and confer  
22 in an effort to resolve all disputes regarding anticipated  
23 testimony, witnesses and exhibits. All Daubert motions,  
24 motions *in limine*, and objections will be heard at the  
25 pretrial conference. Not less than eleven days prior to the  
26 pretrial conference, the parties shall serve and file any  
27 objections to witnesses or exhibits or to the qualifications  
28

1 of an expert witness. Oppositions shall be filed and served  
2 not less than eleven days prior to the conference. There  
3 shall be no replies.

4 Not less than twenty-one days prior to the pretrial  
5 conference the parties shall serve and file requested voir  
6 dire questions, jury instructions, and forms of verdict.  
7 The following jury instructions from the *Manual of Model*  
8 *Civil Jury Instructions for the Ninth Circuit* (2007 ed.)  
9 will be given absent objection: 1.1C, 1.2, 1.6-1.14, 1.18,  
10 1.19, 2.11, 3.1-3.3. Do not submit a copy of these  
11 instructions. Counsel shall submit a joint set of case  
12 specific instructions. Any instructions on which the  
13 parties cannot agree may be submitted separately. The Ninth  
14 Circuit Manual should be used where possible. Each  
15 requested instruction shall be typed in full on a separate  
16 page with citations to the authority upon which it is based.  
17 Proposed jury instructions taken from the Ninth Circuit  
18 Manual need only contain a citation to that source. Any  
19 modifications made to proposed instructions taken from a  
20 manual of model instructions must be clearly indicated. In  
21 addition, all proposed jury instructions should conform to  
22 the format of the Example Jury Instruction attached to this  
23 Order. Not less than eleven days prior to the pretrial  
24 conference, the parties shall serve and file any objections  
25 to separately proposed jury instructions.

26 Jury instructions that the Court has given in prior  
27 cases may be downloaded from the Northern District website

1 at **<http://www.cand.uscourts.gov>**. (Instructions are located  
2 on the "Judge Information" page for Magistrate Judge  
3 Zimmerman). The Court will generally give the same  
4 instructions in cases involving similar claims unless a  
5 party establishes, with supporting authorities, that the  
6 instruction is no longer correct or that a different  
7 instruction should be given. CACI instructions generally  
8 will be given instead of BAJI instructions.

9 A copy of all pretrial submissions, except for  
10 exhibits, shall be e-mailed in WordPerfect or Word format to  
11 the following address: bzpo@cand.uscourts.gov.

12 At the time of filing the original with the Clerk's  
13 Office, two copies of all documents (but only one copy of  
14 the exhibits) shall be delivered directly to Chambers (Room  
15 15-6688). Chambers' copies of all pretrial documents shall  
16 be three-hole punched at the side, suitable for insertion  
17 into standard, three-ring binders.

18 Dated: November 4, 2008

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21 Bernard Zimmerman  
22 United States Magistrate Judge

23 G:\BZALL\BZCASES\USA V. \$23,729 IN US CURRENCY\SCHEDULING ORDER.wpd  
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**ATTACHMENT 1**

The parties shall file a joint pretrial conference statement containing the following information:

**(1) The Action.**

(A) Substance of the Action. A brief description of the substance of claims and defenses which remain to be decided.

(B) Relief Prayed. A detailed statement of each party's position on the relief claimed, particularly itemizing all elements of damages claimed as well as witnesses, documents or other evidentiary material to be presented concerning the amount of those damages.

**(2) The Factual Basis of the Action.**

(A) Undisputed Facts. A plain and concise statement of all relevant facts not reasonably disputable, as well as which facts parties will stipulate for incorporation into the trial record without the necessity of supporting testimony or exhibits.

(B) Disputed Factual Issues. A plain and concise statement of all disputed factual issues which remain to be decided.

(C) Agreed Statement. A statement assessing whether all or part of the action may be presented upon an agreed statement of facts.

(D) Stipulations. A statement of stipulations requested or proposed for pretrial or trial purposes.

**(3) Trial Preparation.**

1 A brief description of the efforts the parties have  
2 made to resolve disputes over anticipated testimony,  
exhibits and witnesses.

3 (A) Witnesses to be Called. In  
4 lieu of FRCP 26(a)(3)(A), a  
5 list of all witnesses likely  
6 to be called at trial, other  
7 than solely for impeachment or  
rebuttal, together with a  
brief statement following each  
name describing the substance  
of the testimony to be given.

8 (B) Estimate of Trial Time. An  
9 estimate of the number of  
10 court days needed for the  
11 presentation of each party's  
12 case, indicating possible  
13 reductions in time through  
proposed stipulations, agreed  
statements of facts, or  
expedited means of presenting  
testimony and exhibits.

14 (C) Use of Discovery Responses. In  
15 lieu of FRCP 26(a)(3)(B), cite  
16 possible presentation at trial  
17 of evidence, other than solely  
18 for impeachment or rebuttal,  
19 through use of excerpts from  
20 depositions, from  
interrogatory answers, or from  
responses to requests for  
admission. Counsel shall  
state any objections to use of  
these materials and that  
counsel has conferred  
respecting such objections.

21 (D) Further Discovery or Motions.  
22 A statement of all remaining  
23 motions, including Daubert  
motions.

24 **(4) Trial Alternatives and Options.**

25 (A) Settlement Discussion. A  
26 statement summarizing the  
27 status of settlement  
negotiations and indicating  
whether further negotiations  
are likely to be productive.



1 (B) Amendments, Dismissals. A  
2 statement of requested or  
3 proposed amendments to  
4 pleadings or dismissals of  
5 parties, claims or defenses.

6 (C) Bifurcation, Separate Trial of  
7 Issues. A statement of whether  
8 bifurcation or a separate  
9 trial of specific issues is  
10 feasible and desired.

11 (5) **Miscellaneous.**

12 Any other subjects relevant to the trial of the action,  
13 or material to its just, speedy and inexpensive  
14 determination.  
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**ATTACHMENT 2**

**USDC**  
Case No. CV08-02968 BZ  
**JOINT** Exhibit No. \_\_\_\_\_

Date Entered \_\_\_\_\_

Signature \_\_\_\_\_

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**USDC**  
Case No. CV08-02968 BZ  
**JOINT** Exhibit No. \_\_\_\_\_

Date Entered \_\_\_\_\_

Signature \_\_\_\_\_

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Date Entered \_\_\_\_\_

Signature \_\_\_\_\_

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**USDC**  
Case No. CV08-02968 BZ  
**PLNTF** Exhibit No. \_\_\_\_\_

Date Entered \_\_\_\_\_

Signature \_\_\_\_\_

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**USDC**  
Case No. CV08-02968 BZ  
**PLNTF** Exhibit No. \_\_\_\_\_

Date Entered \_\_\_\_\_

Signature \_\_\_\_\_

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**USDC**  
Case No. CV08-02968 BZ  
**PLNTF** Exhibit No. \_\_\_\_\_

Date Entered \_\_\_\_\_

Signature \_\_\_\_\_

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**USDC**  
Case No. CV08-02968 BZ  
**PLNTF** Exhibit No. \_\_\_\_\_

Date Entered \_\_\_\_\_

Signature \_\_\_\_\_

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**USDC**  
Case No. CV08-02968 BZ  
**DEFT** Exhibit No. \_\_\_\_\_

Date Entered \_\_\_\_\_

Signature \_\_\_\_\_

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**USDC**  
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**DEFT** Exhibit No. \_\_\_\_\_

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